

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>3:CR-18-0097</b>
	<b>:</b>	
<b>v.</b>	<b>:</b>	<b>(Judge Mariani)</b>
	<b>:</b>	
<b>ROSS ROGGIO</b>	<b>:</b>	<b>(Electronically filed)</b>

**MOTION FOR LEAVE TO FILE**  
**MOTION TO SUPPRESS ROGGIO’S STATEMENT**  
**AND RELATED EVIDENCE**

AND NOW comes the Defendant, Ross Roggio, by his attorney, Gino Bartolai, Esquire, and files the following Motion for Leave to File a Motion to Suppress Roggio’s Statement and related evidence, and in support thereof avers the following:

1. On March 20, 2018, Roggio was charged in an Indictment with conspiracy to commit an offense against the United States, in violation of Title 18, United States Code, Section 371; violations of the Arms Export Control Act, Title 22, United States Code, Sections 2778(b) and ( c); and the International Emergency Powers Act, Title 50, United States Code, Sections 1702 and 1705( c); smuggling goods from the United States, in violation of Title 18 United States Code Sections 554 and 2; wire fraud, in violation of Title 18, United States Code Section 1342; and money laundering, in violation of Title 18 United

States Code, Sections 1956(a)(2)(A) and 2.

2. On March 23, 2018, Roggio appeared before Magistrate Judge Karoline Mehalchick for an initial appearance and arraignment and entered a plea of not guilty to the charges.

3. On February 14, 2019, the Court granted the last of several of Roggio's Motions for Enlargement of Time to File Pretrial Motions and reset the pretrial motions deadline for March 29, 2019.

4. On March 29, 2019, Roggio's former counsel filed a Motion to Suppress Evidence Seized in Violation of the United States Constitution. (Document 46).

5. The undersigned was appointed as Counsel for Roggio on April 3, 2019.

6. On May 20, 2019, the Government filed its response to the aforesaid motion entitled Government's Response to Defense Motion to Suppress Evidence. (Document 56).

7. On July 10, 2019, Roggio filed a Reply Brief to the Government's Response to Defense Motion to Suppress Evidence.

8. The substance of Roggio's pending motion to suppress evidence and the briefs filed in support and opposition thereto involve Roggio's claim that the confiscation of his electronic devices at the JFK Airport and their subsequent searches constituted a violation of the Fourth Amendment and that all fruits of those searches and seizures should be suppressed.

9. The undersigned counsel, after reviewing the discovery and speaking with Roggio in depth about his interaction with customs officials at JFK Airport on February 26, 2017, is of the opinion that Roggio was in custody when questioned by law enforcement agents and was not advised of his rights under Miranda v. Arizona, 384 U.S. 436 (1966). Thus Roggio's Fifth Amendment Rights were violated.

10. Roggio's tainted statement was subsequently used by the Government in its Application for a Search Warrant filed on March 21, 2017. To the extent that Magistrate Judge Mehalchick relied upon Roggio's tainted statement in issuing the Warrant to Search Roggio's electronic devices the subsequent search of Roggio's devices pursuant to that warrant is a fruit of the Fifth Amendment violation.

11. Counsel submits that the delay in asserting Roggio's Fifth Amendment right should be considered excusable as Roggio first advised the undersigned counsel on September 7, 2019, that he had not been advised of his rights under Miranda when questioned at JFK Airport.

12. Counsel is respectfully requesting leave to file a motion to suppress Roggio's statement and related evidence. Counsel is requesting 7 days from the date of the Court's Order to file said motion with supporting brief.

13. Assistant United States Attorney Todd K. Hinkley has been contacted about the substance of this motion and stated that he does not concur in it.

14. The delay occasioned by this motion is excluded from the speedy trial calculation pursuant to 18 U.S.C. § 3161(h)(8)(A).

WHEREFORE, the Defendant, Ross Roggio, respectfully requests that this Honorable Court grant him leave to file a Motion to Suppress Roggio's Statement and Related Evidence.

Respectfully submitted,

Date: October 11, 2019

s/Gino Bartolai  
**Gino Bartolai, Esquire**  
**Attorney ID# PA 56642**

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Attorney for Ross Roggio

**CERTIFICATE OF CONCURRENCE**

I, Gino Bartolai, Esquire, certify that on this date I contacted Todd K. Hinkley, Assistant United States Attorney, who advised that he does not concur in the within **Motion for Leave to File Motion to Suppress Roggio's Statement and Related Evidence.**

Date: October 11, 2019

s/Gino Bartolai  
**Gino Bartolai, Esquire**

**CERTIFICATE OF SERVICE**

I, Gino Bartolai, Esquire, do hereby certify that I electronically served, via e-mail, a copy of the foregoing **Motion for Leave to File Motion to Suppress Roggio's Statement and Related Evidence**, to the following

Todd. K. Hinkley, Esquire  
Assistant United States Attorney

and by placing the same in the United States mail, first class, postage prepaid, at Scranton, Pennsylvania, addressed to the following:

Ross Roggio

Date: October 11, 2019

s/Gino Bartolai  
**Gino Bartolai, Esquire**